

**UNITED STATES DISTRICT COURT
THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

FILED
DEC 19 2011
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES OF AMERICA, Plaintiff,
v.
KEVEN CHEN CHIEH YANG, Defendant.

Case Number CR11-00472 RMW

ORDER OF DETENTION PENDING TRIAL

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing was held on December 19, 2011. Defendant was present, represented by his attorney Michael Armstrong. The United States was represented by Assistant U.S. Attorney John Glang.

PART I. PRESUMPTIONS APPLICABLE

/ / The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and the defendant has been convicted of a prior offense described in 18 U.S.C. § 3142(f)(1) while on release pending trial for a federal, state or local offense, and a period of not more than five (5) years has elapsed since the date of conviction or the release of the person from imprisonment, whichever is later.

This establishes a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of any other person and the community.

/ / There is probable cause based upon (the indictment) (the facts found in Part IV below) to believe that the defendant has committed an offense

- A. — for which a maximum term of imprisonment of 10 years or more is prescribed in 21 U.S.C. § 801 et seq., § 951 et seq., or § 955a et seq., OR
- B. — under 18 U.S.C. § 924(c): use of a firearm during the commission of a felony.

This establishes a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

/X/ No presumption applies.

PART II. REBUTTAL OF PRESUMPTIONS, IF APPLICABLE

/ / The defendant has not come forward with sufficient evidence to rebut the applicable presumption[s], and he therefore will be ordered detained.

/ / The defendant has come forward with evidence to rebut the applicable presumption[s] to wit: .

Thus, the burden of proof shifts back to the United States.

PART III. PROOF (WHERE PRESUMPTIONS REBUTTED OR INAPPLICABLE)

/X/ The United States has proved to a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required, AND/OR

/ / The United States has proved by clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person and the community.

PART IV. WRITTEN FINDINGS OF FACT AND STATEMENT OF REASONS FOR DETENTION

/X/ The Court adopts the facts set forth in the Pretrial Services Report from CDCA. The Court finds that no condition or combination of conditions will reasonably assure the appearance of the defendant. The Court's conclusion is supported by the following facts: (i) defendant has an active felony warrant, dated Jan. 22, 2010, from the State of Nevada and prosecutors in Nevada assert they will seek to extradite defendant if he is released here; (ii) defendant has been unemployed for at least the most recent 18 months and asserts that he has \$50 to his name and significant debts; (iii) defendant (who was born in Taiwan and asserts that he is a lawful permanent resident of the United States) traveled to Taiwan two years ago; his father resides in Taiwan; and defendant has a passport; (iv) defendant has a gambling addiction; (v) defendant lacks significant community ties; (vi) defendant has not identified any suitable sureties; and (vii) according to the case agent, defendant has taken steps to avoid service of process in civil litigation.

PART V. DIRECTIONS REGARDING DETENTION

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate to the extent practicable from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on the request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

Dated: 12/19/2011


NATHANAEL COUSINS
United States Magistrate Judge